

9. NON-COMPLIANCE, FRAUD, AND ABUSE

By submitting a Site Contract in imMTrax and accepting shipment of VFC vaccine, you are agreeing to abide by the statutory requirements of the VFC program. These requirements are federal law, and as the administrator of the VFC Program in Montana, the Immunization Program must enforce compliance.

Non-compliance, fraud, and abuse is typically discovered during VFC site visits but may also be self-reported, reported by third parties, or revealed through vaccine ordering and accountability data. All circumstances are unique, making it difficult to develop a set of rules for handling all situations. We also recognize our obligation to communicate effectively to providers about VFC Program requirements and incidents of non-compliance.

Policy – Non-Compliance

The primary response of the Montana Immunization Program to non-compliance is education, which progresses through three levels as defined below:

- **Site Visit Technical Assistance** – Site visit technical assistance occurs when minor compliance issues are corrected during a site visit and no corrective action from the provider is required. If subsequent follow-up indicates that the issue has not been corrected, the compliance issue progresses to the secondary education level.
- **Secondary Education** – Secondary education focuses on a specific non-compliance issue and includes a corrective action plan for the provider. Secondary education can occur in person during a regular compliance site visit but may occur via telephone or email. If the corrective action plan is not completed and/or the issue is not corrected, providers are inactivated from vaccine ordering, and the issue progresses to the tertiary education level.
- **Tertiary Education** – Tertiary education involves a focused site visit directed at a specific non-compliance issue and a corrective action plan for the provider. If the corrective action plan is not completed and/or the issue is not resolved at this level, the provider is terminated from the VFC Program and possibly referred to the Medicaid Integrity Group for investigation for fraud and abuse.

In general, providers are given three opportunities to correct non-compliance issues before being inactivated or terminated. When responding to non-compliance issues, the Immunization Program considers extenuating circumstances, whether it is a high-priority issue, and whether the non-compliance is intentional, negligent, or simply an error due to lack of knowledge. The Immunization Program reserves the right to elevate the education level of serious or repeated instances of non-compliance or categorize intentional non-compliance as fraud and abuse. The basic process for Montana VFC non-compliance response is outlined in the diagram on page 33.

Policy – Fraud and Abuse

Definitions:

Fraud: an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or some other person. It includes any act that constitutes fraud under applicable federal or state law.

Abuse: provider practices that are inconsistent with sound fiscal, business, or medical practices and result in an unnecessary cost to the Medicaid program, (and/or including actions that result in an unnecessary cost to the immunization program, a health insurance company, or a patient); or in reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards for health care. It also includes recipient practices that result in unnecessary cost to the Medicaid program.

If the non-compliance, fraud, or abuse appears intentional and has resulted in financial gain to the provider, the Immunization Program must refer the situation to the Medicaid Integrity Group for further investigation.

Examples of Fraud and Abuse

- Providing VFC vaccine to non-VFC-eligible children
- Selling or otherwise misdirecting VFC vaccine
- Billing a patient or third party for VFC-funded vaccine
- Charging more than the established maximum regional charge for administration of a VFC-funded vaccine to a federally vaccine-eligible child
- Denying VFC-eligible children VFC-funded vaccine because of parents' inability to pay for the administration fee
- Failing to implement provider enrollment requirements of the VFC program
- Failing to screen for and document eligibility status at every visit
- Failing to maintain VFC records and comply with other requirements of the VFC program
- Failing to fully account for VFC-funded vaccine
- Failing to properly store and handle VFC vaccine
- Ordering VFC vaccine in quantities or patterns that do not match the provider's profile or otherwise over-ordering VFC vaccine
- Waste of VFC vaccine.

Montana VFC Non-Compliance Response Procedure

